



16 SEP 2003

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In re Application of	:	
BASTIOLI et al.	:	
Application No.: 09/936,534	:	DECISION ON PETITION
PCT No.: PCT/EP00/02227	:	UNDER 37 CFR 1.181
Int. Filing Date: 14 March 2000	:	
Priority Date: 15 March 1999	:	
Attorney Docket No.: 13929/T/B/A	:	
For: ARTICLES TO BE CHEWED BY	:	
ANIMALS	:	

This is a decision on applicants' "Renewed Petition under 37 CFR 1.181 to Withdraw a Holding of Abandonment under 37 CFR 1.137(a) or in the Alternative, under 37 CFR 1.137(b)" filed in the Patent and Trademark Office (PTO) on 14 July 2003, which is being treated as a Petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 14 March 2000, applicants filed international application PCT/EP00/02227 which claimed a priority date of 15 March 1999 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 September 2000. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States was midnight, 15 September 2001.

On 14 September 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee; a translation of the international application; an executed declaration; and an information disclosure statement.

On 15 November 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 27 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 15 November 2001 within the time period set therein.

On 03 February 2003, applicants filed Petition to Revive Abandoned Application under 37 CFR 1.137(a), or in the Alternative, under 37 CFR 1.137(b). Applicants stated that the application was unavoidably abandoned as a result of the Applicants' failure to reply to a Notification of Missing Requirements, which was never received. Petitioner's statement was treated as a petition to withdraw a holding of abandonment under 37 CFR 1.181. The petition under 37 CFR 1.181 was dismissed without prejudice in a Decision dated 23 June 2003.

On 14 July 2003, applicants filed "Petition to Revive Abandoned Application under 37 CFR 1.137(a), or in the Alternative, under 37 CFR 1.137(b)" which is being treated as a Petition under 37 CFR 1.181.

DISCUSSION

With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). Applicants have satisfied items (1) and (2).

As to Item (3), applicants have submitted a copy of the docket records for 15 January 2002, indicating all applications for which a response was due on said date. Therefore, since applicants have satisfied Items (1), (2), and (3) above, the request may be properly granted.

CONCLUSION

For the reasons above, the request is **GRANTED**. The holding of Abandonment is withdrawn.

The application has an international filing date of 14 March 2000 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **03 February 2003**.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.



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